

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Aero-Colours, Inc.,

Plaintiff,

v.

Civil No. 11-316 (JNE/SER)
ORDER

Emil Charles Krepelka II, and
Emil Charles Krepelka III,

Defendants.

This matter is before the Court on Plaintiff Aero-Colours, Inc.’s (“Aero-Colours”) Motion to Confirm Arbitration Award and Motion to Hold Respondents in Contempt of Court. A hearing is scheduled for Thursday, January 19, 2012. Defendants Emil Charles Krepelka II and Emil Charles Krepelka III (“Krepelkas”) have made no appearance in this action.

The Federal Arbitration Act (“FAA”) provides for confirmation of an arbitration award. 9 U.S.C. § 9 (2006). With respect to notice of the application for confirmation of the arbitration award, the FAA states that “[i]f the adverse party shall be a nonresident, then the notice of the application shall be served by the marshal of any district within which the adverse party may be found in like manner as other process of the court.” It appears in this case that Defendants were served with the Motion to Confirm Arbitration Award by first class mail. The Court requests that counsel for Plaintiff be prepared to discuss the sufficiency of service in this matter.

In a civil contempt proceeding, the moving party must prove, by clear and convincing evidence, that the person allegedly in contempt violated the court’s order. *Chicago Truck Drivers v. Bhd. Labor Leasing*, 207 F.3d 500, 505 (8th Cir. 2000). Plaintiff alleges that “Chuck Krepelka” operates CK Colours, the entity through which Defendants are alleged to have violated the preliminary injunction. At this time, the Court finds that there is insufficient

evidence as to which Defendant, if either, operates CK Colours. Plaintiff may either respond to questions regarding the ownership and operation of CK Colours during the hearing, or may call the Court's Calendar Clerk to reschedule the hearing until such time as Plaintiff can provide clear and convincing evidence of the relationship between either or both of the two above-named Defendants and CK Colours.

Dated: January 17, 2012

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge